

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JUSTIN T. CLAYTON, Plaintiff, vs. RICHARD E. KROOPNICK, et al., Defendants.	2:22-CV-12156-TGB-APP HON. TERRENCE G. BERG ORDER OF CONSOLIDATION; ADOPTING REPORT AND RECOMMENDATION (ECF NO. 22); AND SETTING DEADLINE FOR PLAINTIFF TO FILE AN AMENDED COMPLAINT
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On July 6, 2023, this Court accepted reassignment of Case No. 22-12325 as a companion case to the earlier-filed Case No. 22-12156, already pending before this Court. The two cases involve common questions of law or fact.

IT IS THEREFORE ORDERED that these cases shall be consolidated in accordance with Federal Rule of Civil Procedure 42(a).

Henceforth, **ALL DOCUMENTS ARE TO BE DOCKETED ON THE LEAD CASE, 22-12156**, and Case No. 22-12325 is statistically **DISMISSED**.

On June 23, 2023, in Case No. 22-12156, Magistrate Judge Anthony P. Patti issued a Report and Recommendation (“R&R”) recommending that Plaintiff Justin T. Clayton’s complaint be dismissed without prejudice. ECF No. 22. Magistrate Judge Patti also recommended that

Plaintiff be permitted to file an amended complaint to remedy defects in the original complaint.

The law provides that either party may serve and file written objections “[w]ithin fourteen days after being served with a copy” of the report and recommendation. 28 U.S.C. § 636(b)(1). The district court will make a “de novo determination of those portions of the report . . . to which objection is made.” *Id.* Where, as here, neither party objects to the report, the district court is not obligated to independently review the record. *See Thomas v. Arn*, 474 U.S. 140, 149–52 (1985).

Neither party has raised objections to the R&R and so the Court will accept and adopt it. Notably, the complaint that the R&R recommended be dismissed was filed by Plaintiff acting as a pro se litigant. But on the same day the R&R issued, an attorney entered an appearance in this case and the subsequently filed Case No. 22-12325, where he represents Plaintiff and Plaintiff’s minor son.

In Case No. 22-12325, also filed without assistance of counsel, Defendants moved to dismiss Plaintiffs’ first amended complaint. ECF No. 17. The Court conducted a telephonic status conference with the parties on July 31, 2023. At the conference, the Court explained that the cases were to be consolidated, and suggested that Defendants agree that their pending motion to dismiss be terminated, so that Plaintiffs could be permitted to file an amended complaint with assistance of counsel in a consolidated case.

Accordingly, it is hereby **ORDERED** that Magistrate Judge Patti's Report and Recommendation (ECF No. 22) is **ACCEPTED** and **ADOPTED**. Plaintiff's complaint in Case No. 22-12156 (ECF No. 1) is **DISMISSED without prejudice**. Defendants' motion to dismiss in Case No. 22-12325 (ECF No. 17) is **TERMINATED**. Plaintiffs are **ORDERED** to file an amended complaint docketed under the lead case (Case No. 22-12156) **by September 12, 2023**.

IT IS SO ORDERED.

Dated: August 22, 2023 s/Terrence G. Berg

TERRENCE G. BERG
UNITED STATES DISTRICT JUDGE